

**REMARKS**

Claims 44-47, 51, 53-61 and 75-89 are pending. By this Amendment, claims 45, 51, 55, 56, 76, 77, 79 and 88 are amended for clarity only, and claims 48-50, 52 and 62-74 are canceled without prejudice to or disclaimer of the subject matter recited therein. Applicant reserves the right to file a continuing application to pursue the subject matter of the canceled claims. No new matter is added.

Applicant notes with appreciation the identification of allowable subject matter in claims 55, 56, 68, 69 and 79. Applicant submits that all pending claims are in condition for allowance as detailed below.

Claims 44-46, 48, 49, 51, 52, 62, 70-72, 74-77, 80-82, 84-87 and 89 stand rejected under 35 U.S.C. §102(e) over Binnard (US 2006/0023186). The rejection is moot with respect to canceled claims 48, 49, 52, 62, 70-72 and 74, and is respectfully traversed with respect to the remaining claims.

Applicant submits a verified English translation of Applicant's Japanese priority Application No. 2004-025837 filed February 2, 2004. The Japanese priority application supports the claims involved in this rejection. Accordingly, the rejected claims are entitled to the February 2, 2004 Japanese application priority date. Applicant submits that the Binnard provisional application (Application No. 60/462,499) does not disclose the features of the rejected claims and thus, the §102(e) date of Binnard is the March 17, 2004 international filing date of the Binnard PCT application No. PCT/IB2004/001259. Because Applicant's February 2, 2004 filing date is before the international filing date of Binnard, Binnard does not qualify as a reference against the rejected claims. Withdrawal of the rejection is requested.

Claims 47 and 50 stand rejected under 35 U.S.C. §103(a) over Binnard. The rejection is moot with respect to canceled claim 50, and is respectfully traversed with respect to

claim 47. In particular, claim 47 is patentable over Binnard for at least the reason set forth above with respect to independent claim 44.

Claims 53, 54, 57-59, 63-67, 73, 78 and 88 stand rejected under 35 U.S.C. §103(a) over Binnard. The rejection is respectfully traversed.

For the reasons set forth above, Binnard does not qualify as a reference against these claims. Furthermore, even accepting the provisional application filing date of Binnard, Binnard is disqualified as a reference against the present application under 35 U.S.C. §103(c). Because Binnard is assigned to the same assignee (Nikon Corporation) as the present application, Binnard is disqualified for use in an obviousness rejection under 35 U.S.C. §103(c). Withdrawal of the rejection is requested.

Claims 44, 47, 48, 50, 54, 60, 75, 78, 83, 74 and 84 stand rejected under 35 U.S.C. §103(a) over Wakamoto et al. (JP-A-2003-249443) in view of Kono (JP-A-7-335748).<sup>1</sup> The rejection of canceled claims 48, 50 and 74 is moot, and the rejection of the remaining claims is respectfully traversed.

Contrary to what is asserted in the Office Action, Kono does not disclose immersion lithography or an immersion lithography apparatus. Kono discusses wet etching. Accordingly, it would not have been obvious to modify Wakamoto et al. in view of Kono to result in the combinations of features recited in Applicant's claims.

Furthermore, Kono does not disclose the features of independent claims 44 and 75. These independent claims recite that both stages are close together or in contact with each other while both stages simultaneously move while maintaining this state. Wakamoto discloses a double stage configuration in which an interferometer is used to measure a

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<sup>1</sup>The inclusion of claim 74 appears to be a typographical error because claim 74 depends from claim 62, which is not included in the rejection. Similarly, the inclusion of claims 54 and 60 in this rejection is erroneous because these claims depend from claim 53 which is not included in the rejection.

position of a stage at an exposure position and an alignment position, and an encoder is used in an area between the exposure position and the alignment position. Wakamoto et al. addresses the problem that the exposure position and the alignment position need to be spaced apart so that two stages do not touch each other, but if the length of the interferometer's movable mirror is increased, then the size of the stage will be increased, and if the number of measurement axes are increased, then the cost will be high.

Thus, Wakamoto et al. is based on the premise that the two stages do not come close to or contact each other. Accordingly, Wakamoto does not disclose or render obvious the combinations of features recited in independent claims 44 and 75, or their dependent claims. Withdrawal of the rejection is requested.

The Office Action rejects claims 2, 31 and 32. However, claims 1-43 were previously canceled, and thus claims 2, 31 and 32 are not pending.

Claims 62-67 and 73 stand rejected under 35 U.S.C. §103(a) over Wakamoto et al. in view of Kono, and further in view of Taniguchi et al. (EP 1 041 357). This rejection is moot in view of the cancellation of claims 62-67 and 73. Withdrawal of the rejection is requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe anything further would be desirable to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number set forth below.

Respectfully submitted,



Mario A. Costantino  
Registration No. 33,565

MAC:jls

Attachments:

Petition for Extension of Time  
Verified English Translation of Japanese Application No. 2004-025837

Date: March 3, 2009

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 320850**  
**Alexandria, Virginia 22320-4850**  
**Telephone: (703) 836-6400**

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